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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
(Sacramento)

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THE PEOPLE,

Plaintiff and Respondent,

v.

RAYMOND WASHINGTON,

Defendant and Appellant.

C073108

(Super. Ct. No. 12F00056)

While Carl Webb was seated in his parked car, talking to his foster brother through an open window, defendant Raymond Washington ran up to the car and fired four shots at Webb as the car sped away.

Defendant pled no contest to assault with a firearm and admitted to an enhancement for personally using a firearm. As part of the plea, defendant would receive a stipulated term of five years and would remain out of custody pending sentencing, but if defendant did not appear for sentencing or committed a crime while on bail, the trial court could impose up to the 14-year maximum term.

Defendant failed to show up for sentencing and remained free until police apprehended him. The trial court sentenced defendant to seven years in state prison, imposed various fines and fees, and awarded 21 days' presentence credit (19 actual and two conduct) pursuant to Penal Code section 2933.1.<sup>1</sup>

Defendant appeals. His request for a certificate of probable cause was denied.

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief.

Defendant filed a supplemental brief asserting trial counsel told him he would get 80 percent rather than 85 percent time and no strikes as a result of his plea. Presuming that defendant alleges a failure to abide by the terms of the plea, a claim that may be raised without a certificate of probable cause, his claim is without merit. The trial court informed defendant at the plea colloquy that he was pleading no contest to a strike, and, as a violent felony, he would have to serve 85 percent of the sentence imposed.

Defendant also claims he had been released on bail before his plea, and therefore would not have agreed to a release pending sentencing contingent upon a higher sentence if he did not appear for sentencing. This contention attacks the validity of the plea, which is not cognizable on appeal because defendant was not granted a certificate of probable cause. (§ 1237.5; *People v. Stubbs* (1998) 61 Cal.App.4th 243, 244-245.)

There is an error in the abstract. Defendant's crime is a violent felony because he admitted a section 12022.5 enhancement (§ 667.5, subd. (c)(8)), which limits his presentence credits to 15 percent of presentence custody (§ 2933.1). The abstract shows

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<sup>1</sup> Undesignated statutory references are to the Penal Code.

the properly limited award of conduct credits (19 actual and two conduct) but shows the credits were imposed pursuant to section 4019 rather than section 2933.1.

Having undertaken an examination of the entire record, we find no other arguable error that would result in a disposition more favorable to defendant.

#### DISPOSITION

The judgment is affirmed. The trial court is directed to prepare an abstract of judgment showing the presentence conduct credits were limited pursuant to section 2933.1 and forward a certified copy to the Department of Corrections and Rehabilitation.

ROBIE, J.

We concur:

HULL, Acting P. J.

MAURO, J.